

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CHEMUNG

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CAPREESE MOORE :

Plaintiff, :

-against- :

LESHA P. MASSOUP, DUKE HUR, J.B.
HUNT TRANSPORT, INC., and COSTCO
WHOLESALE CORPORATION :

Defendant. :

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INDEX NO. 2023/5539

**DEFENDANTS J.B. HUNT
TRANSPORT, INC. AND DUK HUR'S
RESPONSES TO PLAINTIFF'S
NOTICE TO ADMIT**

PLEASE TAKE NOTICE, that the above-named defendants J.B. HUNT
TRANSPORT, INC. and Duk Hur, (hereinafter “answering defendants”), by and through their
attorneys, WEBER GALLAGHER SIMPSON STAPLETON FIRES & NEWBY, LLP, as and
for a response to the Notice to Admit of plaintiff CAPREESE MOORE, dated August 24, 2023,
respectfully state as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. By providing these responses, answering defendants do not waive any of their
affirmative defenses, nor do they concede that the subject information is properly discoverable or
admissible at trial. Answering defendants reserve the right to further object to discovery
regarding the subject matter of the requests herein, and to object to the admissibility of the
information provided.

2. Further, answering defendants object to the requests herein insofar as they seek
information that is not relevant or material to the issues in this matter, is inadmissible, and/or is
not reasonably calculated to lead to discovery of admissible evidence and otherwise is not
required disclosure under Article 31 of the CPLR.

3. Further, answering defendants object to the requests herein insofar as they are not the proper disclosure device for the information sought therein. See, e.g., *Lolly v. Brookdale Univ. Hosp. and Med. Ctr.*, 45 A.D.3d 537, 844 N.Y.S.2d 718 (2nd Dept. 2007) (“the purpose of a notice to admit is not to obtain information in lieu of other disclosure devices, such as the taking of depositions before trial”).

4. Further, answering defendants object to the requests herein insofar as they seek admissions as to legal conclusions or facts that go to the heart of the issue in this case. See, e.g., *Glasser v. NYC*, 265 A.D.2d 526 (2nd Dept. 1999) (“The Supreme Court properly determined that the plaintiff’s notice to admit sought an admission that went to the heart of the matter at issue, i.e., constructive notice of a defect, and was thus improper.”); *Ashkenazi v. City of New York*, 239 A.D.2d 186, 656 N.Y.S.2d 461 (1st Dept. 1997) (“A purported admission, by way of nonresponse to a pedestrian’s notice to admit, that a tile that had struck the pedestrian as she walked by a city school building was dropped from one of two windows of the building was properly vacated as bearing upon the ultimate issue in the pedestrian’s action against the city that should more appropriately be explored through other disclosure devices.”).

5. Further, answering defendants object to the requests insofar as discovery in this matter is ongoing, and to the extent that information sought herein is not within the possession or control of answering defendants.

RESPONSES

1. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., owned a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.

RESPONSE: Admitted.

2. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was the title owner of a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.

RESPONSE: Admitted.

3. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was the register owner of a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.

RESPONSE: Admitted.

4. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., owned a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422.

RESPONSE: Admitted.

5. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was the title owner of a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422.

RESPONSE: Admitted.

6. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was the register owner of a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422.

RESPONSE: Admitted.

7. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was lessor of a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.
- RESPONSE:** Denied. See previous responses.
8. That on November 12, 2021, and upon information and belief, the defendant, J.B. HUNT TRANSPORT, INC., was lessee of a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.
- RESPONSE:** Denied. See previous responses.
9. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, operated a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.
- RESPONSE:** Admitted.
10. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, operated a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422.
- RESPONSE:** Admitted.
11. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, leased a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781.
- RESPONSE:** Denied. At all times material hereto, Mr. Hur was working as an employee for J.B. Hunt Transport, Inc.

12. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, leased a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422.

RESPONSE: Denied. See previous response.

13. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, operated a certain 2022 International LT625 truck, bearing Indiana State registration number, 3058781, with the knowledge, permission and consent of the defendant, J. B. HUNT TRANSPORT, INC.

RESPONSE: Denied as stated. Answering defendants admit only that, at all times material hereto, Mr. Hur drove a tractor in the course and scope of his employment as a company driver for J.B. Hunt Transport, Inc.

14. That on November 12, 2021, and upon information and belief, the defendant, DUK HUR, i/s/h/ as DUKE HUR, operated a certain 2022 International LT625 truck, bearing a vehicle identification number, 3HSDZTZRXNN565422, with the knowledge, permission and consent of the defendant, J. B. HUNT TRANSPORT, INC.

RESPONSE: Denied as stated. See response to Request 13.

15. That on November 12, 2021, and upon information and belief, the defendant, DUKE HUR, was an employee of the defendant, J. B. HUNT TRANSPORT, INC.

RESPONSE: Admitted.

16. That at all times hereinafter alleged, and upon information and belief, the defendant, DUKE HUR, was acting within the course of his employment when he was operating

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